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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,932	01/20/2000	Richard Alan Fiedotin	10160-02-999	3747

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EXAMINER

COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/487,932

Applicant(s)

FIEDOTIN ET AL.

Examiner

Dilek B. Cobanoglu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-66,89 and 90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-66,89 and 90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 04/11/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to amendment filed on 11/28/2006. Claims 45-66 and newly added 89-90 are still pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 45-66 and 89-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falchuk et al, (hereinafter Falchuk) (U.S. Patent No. 6,256,613) in view of Edelson et al. (hereinafter Edelson) (U.S. Patent No. 5,737,539).

A. Claim 45 is amended now to recite a method for distributing medical information stored on a computer system to physicians, the method comprising:

- i. identifying a physician from a database of multiple physicians (Falchuk; abstract, col. 2, 39-46, col. 6, lines 1-10);
- ii. generating an interactive message (Falchuk; col. 5, lines 35-47, col. 6, lines 11-17) comprising:
 - (1) medical information customized to said identified physician (Falchuk; col. 6, lines 11-17); and
 - (2) objects that the physician can select to respond to, or dispose of, the interactive message;

- iii. receiving a communication signal from a handheld computing device operated by said identified physician; and
- iv. in response to said communication signal, transmitting said interactive message from the computer system to said handheld computing device.

Falchuk does not explicitly disclose objects that the physician can select to respond to, or dispose of, the interactive message.

However, this feature is well known in the art, as evidenced by Edelson.

In particular, Edelson discloses objects that the physician can select to respond to, or dispose of the interactive message

(Edelson; col. 40, lines 47-55, col. 41, lines 1-11 and Figure 12;

Edelson's close button (item 140) is considered by the Examiner to be a form of the claimed "object").

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Edelson with the motivation of physician retrieving relevant or useful information or record (Edelson, col. 41, lines 1-11).

B. Claims 46-50, 52-55 and 59-66 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims

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46-50, 52-55 and 59-66 are rejected for the same reasons given in the previous Office Action (paper number 3-8), and incorporated herein.

C. As per newly added claim 89, Falchuk discloses the method of claim 48, wherein examining the profile includes examining count and input data for the identified physician (Falchuk; col. 5, line 48 to col. 6, lines 10).

D. As per newly added claim 90, Falchuk discloses the method of claim 45, wherein the objects include answers the physician can select without typing text.

The obviousness of modifying the teaching of Falchuk to include objects that the physician can select to respond to, or dispose of, the interactive message and objects include answers the physician can select without typing text taught by Edelson is as addressed above in the rejection of claim 45 and incorporated herein.

Response to Arguments

4. Applicant's arguments filed 11/28/2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in order in which they appear.

A. Applicant argues that Falchuk does not disclose "the use of a handheld device", Examiner would like to submit that "handheld computing device" is taught by Edelson and this limitation is rejected under 35 USC 103(a) with the basis of obviousness of using a small size device instead of a computer station with the motivation explained in the previous office action page 3. And the newly

added limitation of "objects that the physician can select to respond to, or dispose of, the interactive message" is rejected as explained above.

B. Applicant argues that Falchuk does not disclose "identifying a physician from a database of multiple physicians", Examiner respectfully submits that Falchuk teaches "a primary care physician" which receives educational information. It is very clear that the system is identifying the primary care physician because the physician is requesting for consultation, and the comments and supporting materials are returned to and the CME credit is given to the primary care physician (abstract, col.a4, lines 39-46 and col. 6, lines 1-10). And it should be clear that there must be more than one primary care physician using the system.

C. Applicant argues that Falchuk does not disclose "generating an interactive message comprising medical information customized to said identified physician", Examiner respectfully submits that Falchuk teaches this limitation on col. 5, lines 35-47, that the incoming and outgoing messages about the medical information customized to the primary care physician. Also in col. 6, line 11-17 Falchuk teaches "request for additions or corrections to prior consultation requests, clarifying comments", which are clearly a part of an interactive messaging.

D. Applicant argues that Falchuk does not disclose "receiving a communication signal from a handheld computing device operated by said identified physician; and in response to said communication signal, transmitting said interactive message from the computer system to said handheld computing device",

Examiner respectfully submits that Falchuk teaches an interactive messaging between a primary care physician and a computing system, Edelson teaches a handheld computing device, also, as explained above, the combination of these two references and the fact that at the time the invention was made "receiving a communication signal (accepting to open a message/e-mail, or deleting it), and in response to said communication signal (such as accepting to open a message/e-mail), transmitting said interactive message to the primary care physician/receiver" is well known to a person having ordinary skill in the art.

E. Applicant argues that Edelson does not disclose "identifying a physician from a database of multiple physicians", "generating an interactive message comprising: medical information customized to said identified physician and objects that the physician can select to respond to, or dispose of, the interactive message", Examiner respectfully submits that these limitations are rejected with the combination of Falchuk and Edelson as explained in the rejection of claim 45 above.

F. Applicant argues that Edelson does not disclose "transmitting said interactive message from the computer system to a handheld computing device" limitation is rejected with the references of Falchuk and Edelson as explained above in the rejection of claim 45.

G. Applicant argues that no possible combination of Falchuk and Edelson renders claim 45, Examiner respectfully submits that Falchuk teaches "identifying a physician from a database of multiple physicians" (Falchuk; abstract, col. 2, 39-

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46, col. 6, lines 1-10), Falchuk specifically teaches "each request for consultation identifies the particular primary care physician to whom the specialist's comments and supporting materials will be returned", Falchuk also teaches "generating an interactive message (Falchuk; col. 5, lines 35-47, col. 6, lines 11-17)", Edelson teaches "the physician can select to respond to, or dispose of, the interactive message", and "in response to said communication signal, transmitting said interactive message to the physician". Also, Edelson teaches a handheld computing device, and it is combined with Falchuk as explained above.

H. Applicant argues that the system of Falchuk requires significant physician input, including specifying the request, self-identification, and "entry of data describing the patient...the patient's clinical history....(and) the particular question" for the specialist. Examiner respectfully submits that the claim recites "identifying a physician from a database of multiple physicians, generating an interactive message", and Falchuk teaches request for consultation from a primary care physician, and client computer also "preferably includes means for including additional information" on col. 2, lines 11-21. That means the primary care physician does not have to put a lot of information on the request, it's only "preferably or by choice".

I. Applicant argues that Falchuk and Edelson do not teach "an inquiry whether said physician wishes to receive CME", Examiner respectfully submits that in col. 5, lines 48-58, Falchuk teaches that the physician is entitled to CME credits based on his/her participation and Falchuk continues in col. 6, lines 11-27 that

the primary care physician may request the display of his/her participation in prior consultations to obtain information on earned CME credits, Examiner considers that the physician wishes to receive CME. Also, in col. 5, lines 35-47 Falchuk teaches with an incoming message the physician may request a clarification or may conclude the consultation, and a CME accreditation module indicated generally at 70 is notified that the consultation has been successfully concluded. Examiner considers that when the physician concludes the consultation, that means he/she no longer wishes to receive CME.

J. Applicant argues that Falchuk and Edelson do not teach "an expiration date associated with the interactive message", Examiner respectfully submits that in col. 4, lines 53-61 Falchuk teaches a message system which is handling in timely fashion, that is if there is no response to a message within a predetermined duration, the physician may select another specialist (or message receiver). Examiner considers that the message expires in a predetermined time. Examiner combined two references of Falchuk and Edelson, because Edelson teaches a handheld computing device and Falchuk does not. The motivation is that the medical professionals are able to exchange data more conveniently as explained in the previous office action (page number 2-3).

K. Applicant argues that Falchuk and Edelson do not teach "interactive message is configured to be automatically displayed", Examiner would like to submit that the cited sections of Falchuk teach a physician is accessing the system services and then he/she can be informed of any pending responses

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(Falchuk; col. 6, lines 1-18), Examiner considers that this is automatically displaying the message.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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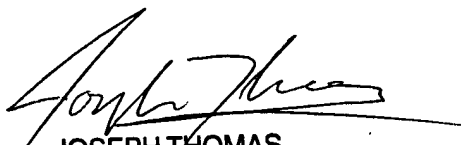
9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DBC

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01/29/2007


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER